IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 5688 OF 2007

Kailas Damodar Patil .... Petitioner

versus

The Returning Officer & ors..... Respondent.

Shri M.S.Karnik for the petitioner

Mr. P.L.Bhujbal for respondent no.3.

CORAM; A.P. DESHPANDE, J.
DATED; 07TH AUGUST, 2007

P.C.;

1. Rejection of the nomination paper, filed by the petitioner, by the Returning Officer is the cause for filing of this writ petition. An objection was raised about the eligibility of the petitioner to contest the election on the ground that the petitioner did not satisfy the conditions laid down in the bye-law no.32(10) of the Co-operative Bank and aggrieved by the rejection of the nomination, the petitioner preferred an appeal before the Commissioner and the Commissioner concurring with the view, taken by the Returning Officer, has rejected the appeal. Perusal of the order passed by the Commissioner which clearly reveals that various contradictory documents are placed on record by the rival parties and disputed

question of fact arises for adjudication which cannot be done in the present writ petition that too when the last date for withdrawal of nomination is 9-8-2007 i.e. day after tomorrow. It is not possible to decide the writ petition after offering reasonable opportunity to the respondent, without obstructing the process of election which ought not to be done. In the result, I decline to interfere with the impugned order in exercise of writ jurisdiction. Writ petition is thus summarily dismissed. However, it is made clear that it shall be open for the petitioner to file appropriate election petition if so advise. All questions raised in the present petition are left open to be agitated in the election petition.

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